

## **Operations and Maintenance Agreement**

### ***Frequently Asked Questions***

#### **Agreement Basics**

##### **What is an O&M Agreement?**

An Operations and Maintenance Agreement (O&M Agreement), also known as a Stormwater Treatment Measure Maintenance Agreement, is a **required** agreement executed between a property owner/developer and the City for all development projects that incorporate stormwater treatment measures (i.e. swales, vegetated filter strips, bioretention, vegetated buffer areas, porous pavement, sand or organic filters, oil/sediment separators, media filtration units, extended detention basins, wet ponds, constructed wetlands, etc.) into the site plan.

##### **Why is an agreement required?**

Stormwater treatment measures can fail over time if not properly maintained. The agreement provides a formal document recorded against the property that informs owners and property managers of operation and maintenance requirements of the treatment measures and provides detailed criteria for compliance. The agreement also provides an enforcement mechanism for future potential non-compliance issues.

##### **Why does the agreement need to be recorded?**

Recording the O&M Agreement on the property title assures that new owners/occupants are aware of the stormwater treatment measures on site and the associated O&M requirements to keep the stormwater treatment measure(s) functioning efficiently.

##### **What are the main components to the agreement?**

- Standard agreement identifying specific stormwater treatment measures incorporated on site
- Exhibits to the agreement to be prepared by the applicant and reviewed and approved by the City of Fremont:
  - a. Legal description of property
  - b. Site plan
  - c. Maintenance plan for treatment measure(s)
  - d. Annual reporting forms detailing maintenance activities
- Recording of agreement

##### **How will submittal of the agreement be enforced?**

An executed and recorded agreement is required to be provided to the City of Fremont prior to issuance of any development permits.

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### **Maintenance and Reporting Requirements**

#### **What does maintenance entail?**

Maintenance requirements vary depending on the type of stormwater treatment measure(s) incorporated. In general, maintenance consists of litter abatement and vegetation management similar to what would be conducted for a landscaped area.

#### **What does a maintenance plan look like?**

The maintenance plan is developed by the applicant (or representative of the applicant), specific to the type of treatment measure(s) incorporated. The maintenance plan is a required component of the O&M Agreement that must be submitted and approved by the City before the agreement can be finalized. Several examples of maintenance plans for the more commonly used treatment measures can be found at: <http://fremont.gov/stormwaterdevelopment> under “Sample Maintenance Plans and Inspection Checklists”

#### **How does the City of Fremont enforce the maintenance aspect of O&M Agreements?**

The City is required by NPDES Permit to conduct an inspection program. Inspections will be performed to ensure adequate maintenance is being conducted and that stormwater treatment measures are in proper working order. The O&M Agreement provides for site access for City inspection staff and other local agency staff including the Mosquito Abatement District.

#### **What happens if I do not comply with the maintenance requirements?**

The ultimate goal is not to issue penalties but rather to work with property owners/occupants and provide outreach to ensure stormwater treatment measures are maintained. However, if inspections identify noncompliance with the O&M Agreement requirements, penalties can be issued including warning notices, notice to comply, notice of violation and fines depending on the gravity of the noncompliance situation.

#### **What do I need to report?**

Reporting consists of completing the regular inspection report and annual report forms (Exhibit D of the O&M Agreement). All completed reports shall be made available to the City for a period of five rolling years. Inspection frequency/priority will be based on maintenance history and completeness of reports.

#### **For more information:**

Visit our website at <http://fremont.gov/stormwaterdevelopment> or contact the City of Fremont Environmental Services Division at (510) 494-4570.